

To The United States District Court
For The Western District Of Wisconsin

James Alfred Smith, Jr

Plaintiff

Case No. 16 - CV - 1200C NO

v.

REC'D/FILED

William Pollard, et al,

Defendants,

2016 JUN 27 PM 12:56

James Alfred Smith Jr,

Petitioner

Case No. 16 - CV - 1200C NO
 PETER OPPENEER
 CLERK, US DIST COURT
 WD OF WI

v.

William Pollard,

Respondant

Notice of Appeal to the United States Court of Appeals for the Seventh Circuit

James Alfred Smith Jr, the Plaintiff and Petitioner in the above captioned cases is hereby giving notice of appeal to the United States Court of Appeals for the Seventh Circuit in a submitted proposed civil action under 42 U.S.C. § 1983 together with a petition for a writ of habeas corpus that were Intertwined - Interlaced and twined together, but the cases were separated by the District Court in deliberate indifference to the nature of suit pursuant to 530 suit code presenting a Federal Question: "Does the Americans with Disabilities Act Protect Defendants in State Prosecutions?" This omission by the District Court has prejudiced Smith, as that court juggled the two cases and denied appointment of counsel. However, the Plaintiff Petitioner recently filed Motion for Appointment of Counsel under Title II of the ADA. The District Court has denied and ignored all claims under Title II of the ADA after attempting to explain the situation that Smith presented a Certified Federal Question in Habeas action and (and) a § 1983 action requesting injunctive relief the correct the constitutional deprivation in court proceedings under Title II of the ADA. However, the Court disregarded Smith's pleas, omitting his ADA claim in Smith v. Pollard 16 - CV - 09, ordering him to file a amended petition that complies with instructions in a earlier order by July 1, 2016.

The Petitioner submitted "Motion for Appointment of Counsel under Title II of the ADA informing the District Court that Smith submitted a letter directed to Hon. Stephen Crocker Magistrate Judge in case No 16 - CV - 009 - and 16 - CV - 010. Informing the court that I am disabled with a mental illness protected by the ADA. Therefore I presented a federal question to that court "Does the Americans with Disabilities Act Protect Criminal Defendants in State Prosecutions? The Court issued Notice of Electronic Filing in deliberate indifference filed on June 21, 2016 omitting Smith's ADA claim's in Smith v. Pollard 16 - CV - 10, contending that

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it was too early to decide whether the demands of this lawsuit exceeds plaintiff abilities to handle it on his own. Citing *Pratt V. Mote*, 503 F.3d 647 (7th Cir. 2002). Further stating "The court is going to hold a telephonic preliminary pretrial conference soon. During that phone call, I will talk to plaintiff about his specific concerns in this case and I will take those concerns into account when considering plaintiff's future request for assistance re-cruiting counsel. For now, however, Plaintiff's motion is denied without prejudice. Therefore, the Plaintiff is compelled to Appeal this discriminatory order issued 6/21/2016 in case *Smith V. Pollard* 16-cv-10 and order date 6/17/2016 in case *Smith V. Pollard* 16-cv-09, to the United States Court of Appeals for the Seventh Circuit presenting two Certified Federal Questions Does the Americans with Disabilities Act Protect Criminal Defendants in State Prosecutions? If so, create a training program for Criminal Justice and Law Enforcement on how to identify disabled defendants in police interrogations and court proceeding under Title II of the ADA. And Does Title II of the Americans with Disabilities Act require Appointment of Counsel upon Request or does the court have grounds to evaluate the individual before appointment of Counsel?

Smith believes that the District Court is inadvertently discriminating against him in deliberate indifference to his ADA claims after informing the District Court that he is a qualified individual with an intellectual disability. Smith informed the court that he suffered a brain injury, trauma, traumatic head injury, the results which are expected to last indefinitely which constitutes a substantial handicap to the individual and Smith has been diagnosed with attention impairment, condition impairment, language impairment, memory impairment and conduct disorder to such extent that he requires care and treatment for his own welfare. His memory impairment grossly impairs judgment, behavior and his ability to meet ordinary demands of life. Plus he has a learning disability. How could the District Court evaluate Smith over the phone with all these obstacles to overcome when Smith also informed the court he is afraid to come out his cell and has refused to come out his cell for anything. So the District Court will be unable to hold a fair hearing as to the extent of Smith's disability.

Therefore, Mr. Smith is compelled to Appeal to the U.S. Court of Appeals for the Seventh Circuit due to discrimination by the district court. Under penalty of perjury I declare the foregoing is true and correct

Dated this 23rd day of June 2016

Very Truly
J. Smith